

LABOUR AND EMPLOYMENT DEPARTMENT

The 20th April, 1977

No. 2392-5&Lab-77/9959.—In exercise of the powers conferred under section 88 of the E. S. I. Act, 1948, the Governor of Haryana is pleased to exempt the following Sales/Medical Representatives of M/s The Pharmaceutical Co. of India, Bombay, from the operation of the E.S.I. Act, 1948 (as amended) :—

| Serial No. | Name of the employee | Place of posting of Sales/Medical Representatives | Period of Exemption |
|------------|----------------------|---|--|
| 1 | A.K. Tharga | Hissar | 1st November, 1976 to 31st October, 1977 |
| 2 | J.R. Bhayagna | Hissar | Ditto |

The above exemption is subject to the following conditions mentioned below :—

- (1) The afore said factory wherein the employees are employed shall maintain a register showing the names and designations of the exempted employees.
- (2) Notwithstanding this exemption, the employees shall continue to receive such benefit under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates.
- (3) The contributions for the exempted period, if already paid, shall not be refunded.
- (4) The employer of the said factory shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred to as the said period), such returns in such form and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950.
- (5) Any Inspector appointed by the Corporation under sub-section (1) of section 45 of the said Act, or other official of the Corporation authorised in this behalf shall, for the purposes of :—
 - (i) verifying the particulars contained in any return submitted under sub-section (1) of section 44 for the said period ; or
 - (ii) ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950, for the said period; or
 - (iii) ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification ; or
 - (iv) ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory be empowered to ;—
 - (a) require the principal or immediate employer to furnish to him such information as he may consider necessary ; or
 - (b) enter any factory, establishment, office or other premises occupied by such principal or immediate employer at an reasonable time and require any person found incharge thereof to produce to such inspector or other official and allow him to examine such documents, books and other documents relating to the employment of persons and payment of wages or to furnish to him such information as he may consider necessary; or
 - (c) examine the principal or immediate employer, his agent or servant or any person found in such factory, establishment, office or other premises, or any person whom the said Inspector or other official has reasonable cause to believe to have been an employee ; or
 - (d) make copies of or take extracts from, any register, account book or other document maintained in such factory, establishment, office or other premises.

P. P. CAPRIHAN,
Financial Commissioner and Secy.

LABOUR DEPARTMENT

The 26th April, 1977

No. 3082-4Lab-77/10052.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Comet Enterprises Private Limited, 31-B, Industrial Area, Faridabad Township.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 103 of 1976

between

SHRI BIRENDER SINGH, WORKMAN AND THE MANAGEMENT OF M/S COMET ENTERPRISES, PRIVATE LIMITED, 31-B, INDUSTRIAL AREA FARIDABAD TOWNSHIP

Present.—

Shri Amar Singh, for the workman.

Shri D.C. Bhardwaj, for the management.

AWARD

By order No. ID/FD/1010-A-76/21428, dated 23rd June, 1976, the Governor of Haryana referred the following dispute between the management of M/s Comet Enterprises Private Limited, 31-B, Industrial Area, Faridabad Township, and its workman Shri Birender Singh to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Birender Singh was justified and in order ? If not, to what relief is he entitled ?

On receipt of the reference, notices were issued to the parties. The parties appeared and put in their pleadings and some documents. On the pleadings of the parties, the following issues were framed on 19th November 1976 :—

- (1) Whether the termination of services of the workman concerned was justified and in order ? If not, to what relief is he entitled ?
- (2) Whether the workmen concerned approached directly to the management for resolving the dispute ? If not, what is its effect ?
- (3) Whether the workman concerned left the job himself ?
- (4) Whether the workman concerned was gainfully employed by some other management ? If so, during what period, to what gain, and to what effect ?

The case was fixed for the evidence of the workman. On the date fixed a compromise was entered into between the parties. According to compromise, the management got ready to take the workman back on duty. They stated that they had not terminated the services but regarding back wages they stated that they are ready to pay 15 days wages to the workman against back wages. The representative of the workman and the workman agreed to that. I, therefore, give any award as follows :—

That the termination of services of the workman concerned Shri Birender Singh was not justified nor in order. The workman concerned is entitled to reinstatement with continuity of service. The workman is also entitled to 15 days wages only against back wages.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 31st March, 1977

No. 351, dated 31st March, 1977

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 31st March, 1977

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 3086-4Lab-77/10090.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workman and the management of M/s Kirloskar Oil Engines Ltd., 25th Kilometre, Mathura Road, Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 71 of 1974

between

SHRI S. C. SETHI, WORKMAN AND THE MANAGEMENT OF M/S KIRLOSAR OIL ENGINES LTD., 25TH
KILOMETRE, MATHURA ROAD, FARIDABAD

Present :—

Shri R. N. Roy, for the workman.

Shri S. L. Gupta, for the management.

AWARD

By order No. ID/FD/73/15447, dated 4th June, 1974, the Governor of Haryana referred the following dispute between the management of M/s Kirloskar Oil Engines Ltd., 25th Kilometre, Mathura Road, Faridabad and its workman Shri S. C. Sethi, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Satish Chandor Sethi was justified and in order ? If not, to what relief is he entitled ?

On receipt of the reference, notices were issued to the parties. The parties appeared and put in their pleadings. On the pleadings of the parties, the following issues were framed by my learned predecessor on 8th October, 1974.

- (1) Whether the demand, the subject matter of the present reference, was first raised on the management and rejected by it before taking up the matter for conciliation? If not, with what effect?
- (2) Whether the termination of services of Shri Satish Chander Sethi was justified and in order? If not, to what relief is he entitled?

The case was then fixed for the evidence of the parties. The parties have closed their case and the case was then fixed for arguments. At this stage the parties reached a settlement. The terms and conditions of the settlement dated 10th March, 1977 are as follows:—

- (1) That the management shall pay to me full wages upto the date of my dismissal.
- (2) That the management shall also pay to me 1½ months wages as notice period wages.
- (3) That the management shall also pay to me a sum of Rs 2,000 only in addition to the above said three amounts for consideration that I shall have no claim to reinstatement or re-employment.
- (4) That I shall be treated as retrenched on the date of dismissal, but will not be entitled to claim notice wage of one month as is provided in retrenchment cases.
- (5) That the management shall pay to me all other dues as admissible under law such as earned wages, wages against earned leave, bonus and gratuity as admissible according to law and as paid to other employees. If on or prior to the date of dismissal any annual increment is found to have accrued to me as per the rules of the company or as per law, the same will also be paid as other dues.
- (6) On receipt of the amount as said above, I shall have no claim whatsoever of any kind from and against the company. This settlement settles every dispute.

The factory of the management has been closed and in these circumstances, I think that the settlement is fair and genuine. I give my award as follows:—

- (1) That the management shall pay to the workman full wages upto the date of dismissal.
- (2) That the management shall also pay to the workman 1½ months wages as notice period wages.
- (3) That the management shall also pay to him a sum of Rs 2,000 only in addition to the above said amount for consideration that he shall have no claim to reinstatement or re-employment.
- (4) That the workman shall be treated as retrenched on the date of dismissal, but will not be entitled to claim notice wage of one month as is provided in retrenchment cases.
- (5) That the management shall pay to the workman all other dues as admissible under law such as earned wages, wage against earned leave, bonus and gratuity, as admissible according to law and as paid to other employees. If on or prior to the date of dismissal any annual increment is found to have accrued to the workman as per the rules of the company or as per law, the same will also be paid as other dues.
- (6) On receipt of the amount as said above, the workman shall have no claim whatsoever of any kind from and against the company, this settlement settles every dispute.

The payment of the agreed amount has been paid to the workman before this Tribunal and the workman has accepted the payment in full and final settlement of all his dues, claims and rights whatsoever.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 31st March, 1977.

No. 368, dated 31st March, 1977

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 31st March, 1977

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 3090-4Lab-77/10092.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workman and the management of M/s. Khadi Ashram, G.T., Road, Panipat.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 9 of 1972

Between

SHRI OM PARKASH, WORKMAN AND THE MANAGEMENT OF M/S. KHADI ASHRAM, G.T. ROAD
PANIPAT

AWARD

By order No. ID/KNL/128-71/1267, dated 17th January, 1972 the Governor of Haryana, referred the following dispute between the management of M/s. Khadi Ashram, G.T. Road, Panipat and its workman Shri Om Parkash to this Tribunal for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Om Parkash Verma was justified and in order? If not, to what relief is he entitled?

On receipt of this reference, notices were issued to the parties. The parties contested this case and gave their evidence. The following issues were framed by my learned predecessor on 4th August, 1975.

- (1) Whether the workman abandoned the service of the management of his own free accord?
- (2) The case of non-proof of issue No. 1 whether the order of termination of services of Shri Om Parkash Verma is legal, proper and justified?

There was another reference No. 55 of 1971 which was also pending between the parties. That reference was regarding the action of the management in transferring the workman concerned from Panipat to Palwal was justified and in order. Although in that reference there was another demand also, but that is not material now as I have answered that reference and have given any award in that reference No. 55 of 1971 which has dealt with all the matters in controversy between the parties.

The facts of this case to be narrated briefly are that the management had transferred the workman concerned and the workman had contested that transfer on the ground that his transfer was neither justified nor in order.

In that award No. 55 of 1971 I have held and have given the award to the effect that the action of the management in transferring the workman concerned was justified and in order.

This is the case of both the parties that the workman concerned did not carry out the transfer and disobeyed the order of the management by not proceeding on this transfer. As I have given that award that the transfer was justified and in order, therefore, the question remains to be decided is only this whether the termination of the services of the workman concerned on the ground that he disobeyed the above said transfer order was justified and in order or not. This question I am deciding in this award.

Further the parties in this case agreed that the decision of this issue will depend on decision on issue No. 2 in reference No. 55 of 1971. Issue No. 2 in reference No. 55 of 1971 relates to the transfer of the workman concerned by the management, its justifiability or not. The parties agreed that it was the case of both of them that the workman concerned declined to join duties at the place where he was transferred. The parties further agreed that they need not under the circumstances adduce evidence in reference No. 9 of 1972 till the decision on issue No. 2 in reference No. 55 of 1971.

The parties had also requested for consolidation of reference and the reference were consolidated. But at that time the matter involved was whether Khadi Ashram, Panipat was an industry within the meaning of Industrial Disputes Act, 1947. On 26th July, 1974 the parties had also agreed that the proceedings and evidence shall be recorded in reference No. 55 of 1971. But the statement of the parties that the parties need not under the circumstances adduce evidence in this reference till the decision of issue No. 2 of reference No. 55 of 1971, was recorded on 4th August, 1975.

This is an admitted case of the parties that the workman concerned did not carry out the transfer order.

The workmen asserted that he did not carry out the transfer order because he treated them illegal. I have held in reference No. 55 of 1971 that the transfer order was justified and in order. I have also considered the case law on this point when the workman refused to carry out transfer order and asserted in court that he did not carry out transfer order and disobeyed the said transfer order, there is no need of holding any enquiry. Had it been the case of the workman that he did not refuse to carry out the transfer order, there was a need of holding an enquiry but here the workman has vehemently asserted that he did not carry out the transfer order and disobeyed the transfer order as he treated that order illegal and unjustified. Therefore, I think there was no necessity of any enquiry. I, therefore, hold that the termination of services of Shri Om Parkash Verma the workman concerned was justified and in order. I now give my findings issuewise.

Issue No. 1

There is no evidence in proof of issue No. 1, hence I hold this issue against the management and hold that the workman concerned did not abandon the service of the management of his own accord.

Issue No. 2

On this issue I have discussed above and have come to the conclusion that the order of termination of services of the workman concerned was legal, proper and justified. I hold this issue in favour of the management. I, therefore, give my award as follows:—

That the termination of the services of the workman concerned Shri Om Parkash was justified and in order. He is not entitled to any relief.

Dated the 31st March, 1977.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 372, dated the 31st March, 1977.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 31st March, 1977.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.